

Ladu Lal. Versus Union of India & ors.

S.B. Civil Writ Petition No. 369/2005

■ ■ ■

Date of Order: May 11, 2007

HON'BLE MR. JUSTICE H.R. PANWAR

Mr. Mahaveer Bishnoi, for the petitioner.
Mr. Ravi Bhansali, for the respondents.

BY THE COURT:

By an application being IA No.2165/2006, learned counsel for the petitioner submits that petitioner Ladu Lal, after filing the writ petition, expired on 30-12-2004 and he is represented by his two grand-sons, viz. Rajesh Raigar and Sanjay Kumar, who are sons of petitioner Ladu Lal's son Ram Narain and, therefore, the legal heirs of deceased petitioner Ladu Lal be substituted in place of deceased petitioner Ladu Lal.

I have heard learned counsel for the parties. The application seeking substitution of legal heirs of deceased Ladu Lal is allowed. Amended cause title has already been filed and the same be placed at the appropriate place in the file.

With the consent of learned counsel for the parties, the writ petition is being finally heard and decided at the admission stage.

By the instant writ petition, it is prayed that a direction be issued to the respondents to make payment of outstanding amount and grant family pension for the services rendered by deceased Ram Narain, the son of deceased petitioner Ladu Lal, who was a Lance Nayak in 10 Corps Sig. Regiment (AREN), 56 APO of Indian Army.

I have heard learned counsel for the parties.

It is submitted that Ram Narain S/o late petitioner Ladu Lal was serving in the Indian Army having Service Number 14247114W as Lance Nayak. According to the petitioner, Ram Narain has been missing from the place of his duty since 3.11.1993 when he was attached with 6 (1) Armed Brg. Singal Coy while serving under 10 Corps Signals Regiment C/o 56 APO. It is stated that at the relevant time when the unit was undergoing technical training camp in the same location, which according to the learned counsel for the petitioner was at Suratgarh. In respect of missing of Ram Narain, the Second

Lieutenant, Adjt., 10 Corps Signal Regiment (AREN) C/o56 APO, vide registered letter dated 26-11-1993, requested the Superintendent of Police, Bhilwara and the District Collector, Bhilwara to take early action to apprehend Ram Narain and intimate the respondent department. On this communication, deceased petitioner Ladu Lal came to know that his son Ram Narain is missing from his unit, whereupon a request was made to the Commanding Officer of the Unit by the wife of Ram Narain vide Annx.2 dated 27-12-1993 for searching Ram Narain and certain letters were also written by deceased petitioner Ladu Lal to the Army Authorities in this respect. A communication Annx.9 was received by deceased petitioner Ladu Lal from 10 Corps Signal Regiment (AREN) C/o 56 APO stating therein that his son Ram Narain was found missing from the duty from 2130 hours on 3-11-1993 while the unit was undergoing the training camp at Suratgarh; he was not deployed alone and was not issued any weapon at that time; after his absence, apprehension order was issued by the unit to all the concerned vide letter No.1073/Sigs/02 dated 16-11-1993; subsequently the unit forwarded a copy of apprehension order to D.I.G. (CID), Jaipur; the Superintendent of Police, Suratgarh, Railway Police, Suratgarh; the District Collector, Bhilwara and the Deputy Commissioner, Bhilwara to intimate the whereabouts of the individual, but no intimation has so far been received from above

authorities. According to Annx.9, a Junior Commissioned Officer was also sent to Suratgarh to liaise with local police authorities, Railway Police, Civil hospital and local military police to investigate the whereabouts of Ram Narain and these authorities have no information regarding the whereabouts of Ram Narain. Vide letter Annx.11, the respondent authority informed deceased petitioner Ladu Lal that as per the existing orders, a court of inquiry presided by an Army Officer was conducted which has opined that his son Ram Narain illegally absented himself without leave; he was later on declared as deserter as per existing orders. Deceased petitioner Ladu Lal was informed by the respondents that soldier Ram Narain has been declared deserter from duty in an inquiry held under Section 106 of the Army Act and subsequently dismissed from service and, therefore, he is not entitled to any pay or pension irrespective of his length of service. However, vide order Annx.18, it was informed that while service with 10 Corps Signal Regiment, Ram Narain, under the Army Group Insurance Scheme in respect of member Ram Narain, a cheque No.614858 dated 7-8-1998 has been sent to your SF Account No.7766 drawn on State Bank of Bikaner & Jaipur, Jhazpur towards payment of above benefit and after deducting certain amount, a sum of Rs.17,998/- was informed to be payable to the legal heir of Ram Narain, viz., his wife Prem Devi. Thus, the respondents informed the petitioner

that except the amounts noticed above, no other amount or pension is payable to the next of kin of Ram Narain.

A reply to the writ has been filed by the respondents stating therein that if a soldier who is declared deserter by a duly constituted Court of Inquiry under Section 106 of the Army Act and subsequently dismissed from service, is not entitled for any type of pension irrespective of length of service rendered by such soldier. It was further stated that deceased petitioner Ladu Lal himself has clearly stated in the application dated 23-6-1997 filed before the Station House Officer, Police Station, Jahazpur, district Bhilwara that his son Ram Narayan went to the residence of his father-in-law after desertion from the Army during November 1993. It was further stated in the reply that since Ram Narayan was not paid any type of pension, therefore, his dependents are also not entitled for family pension under the provisions of Part-I of the Pension Regulations for the Army.

The averments made in the reply have not been controverted by the petitioners. In this view of the matter, since Ram Narayan was declared deserted by the Court of Inquiry and thereafter his services were dismissed, therefore, irrespective of length of service, he was not entitled for any pension. Since Ram Narayan was not entitled for any pension, therefore, his dependents are also not entitled for any family pension. Whatever amount remained outstanding to be paid to him, has

been paid by the respondents to the wife of soldier Ram Narayan and nothing remains due as stated by the respondents and remained uncontroverted by the petitioner. In this view of the matter, I do not find any merit in the writ petition and it is liable to be dismissed.

In the result, the writ petition filed by the petitioner is dismissed. There shall be no order as to costs.

(H.R. PANWAR), J.

mcs